

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA

SAM HAMDI MALHAS,)	
)	
Plaintiff,)	
vs.)	Case Number CIV-16-1440-C
)	
NANCY A. BERRYHILL,)	
Acting Commissioner of the Social)	
Security Administration,)	
)	
Defendant.)	

ORDER ADOPTING REPORT AND RECOMMENDATION

On August 14, 2017, United States Magistrate Judge Suzanne Mitchell issued her Report and Recommendation (“R&R”) in this action in which Plaintiff seeks review of the denial of his application for disability insurance benefits. Judge Mitchell recommended the Commissioner’s decision be reversed. Defendant’s objection to the R&R was timely filed, and the Court reviews the matter de novo.

Defendant’s objection to the R&R argues that Judge Mitchell impermissibly reweighed the evidence. In recommending reversal, Judge Mitchell noted that the Administrative Law Judge (“ALJ”) focused on certain portions of Plaintiff’s medical records and from that portion of the records improperly made speculative inferences. The ALJ then rejected the findings of the treating physician based on the ALJ’s opinion about Plaintiff’s abilities arising from the ALJ’s “cherry picking” certain portions from the medical records. As Judge Mitchell correctly noted, this action by the ALJ was error. See McGoffin v. Barnhart, 288 F.3d 1248, 1252 (10th Cir. 2002). Defendant’s arguments fail to demonstrate any error by Judge Mitchell.

Accordingly, the Court ADOPTS the Report and Recommendation (Dkt. No. 20) issued by the Magistrate Judge, in its entirety, REVERSES the decision of the ALJ, and REMANDS this matter to the Commissioner for further proceedings. A judgment shall issue accordingly.

IT IS SO ORDERED this 25th day of September, 2017.



ROBIN J. CAUTHRON
United States District Judge